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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,522

01/27/2005

Pia Luisa De Gaudenzi

AP047-05

1460

29689

7590

10/04/2006

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EXAMINER

GRILES, BETHANY L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,522	<b>Applicant(s)</b> DE GAUDENZI, PIA LUISA	
	<b>Examiner</b> Bethany L. Griles	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 13-17 and 19-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-17 and 19-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Based on the amendments to the claims, please see the new rejection as detailed below:

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-17 and 19 (amended) and new claims 20-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiller et al US5035205.

Regarding claims 13, 20, 21, and 27, Schiller et al. disclose a disposable toilet box for cats comprising a rectangular box (figure 1) with a bottom and four vertical faces; wherein the back face 12 is longer than the side faces 22a, 22b such that the back face 12 is adapted to form the cover of the box (col 3, line 34); wherein the side faces 22a, 22b comprise an outcoming ply at the same height dividing the side faces in a upper part 22a, 22b and lower part 16a, 18a; characterized in that the top edge of the back face 12 has a shape 13 adapted for fixing the cover 12 when it is closed; oblique

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plies are provided in the upper part of the side faces 22a, 22b respectively, starting from the meeting point of the respective horizontal ply with the back face of the box; and oblique plies 16b are provided in the upper part of the frontal face at the meeting point of the horizontal ply with the side face 16a, 18a.

Schiller et al. do not disclose the back of the box is formed of three curves; of which two are sharp curves at the corners and a lower plane curve in the middle to resemble the shape of a cat's head.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to change the shape of the back face, since there is no invention in merely changing the shape or form of an article without changing its function except in a design patent. *Eskimo Pie Corp. v. Levous et al.*, 3 USPQ 23.

Regarding claim 14, Schiller et al. disclose that the bottom comprises four flaps 20b, 21a, 20a, 21b, the two larger flaps covering the whole bottom and the two smaller flaps foldable between the larger flaps covering together the bottom surface (col 3, lines 13-16).

Regarding claims 15, 17, 24, 26, 29, and 31 Schiller et al. disclose the box is made of carton (cardboard), which is biodegradable (col 3, line 7).

Regarding claims 16, 25, 30 Schiller et al. disclose the box is self-standing (see figure 4 and col 3, lines 49-52).

Regarding claim 19, Schiller et al. disclose the box can be filled with hygienic litter (col 1, lines 61-64).

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Regarding claims 22, 23, and 28, Schiller et als disclose the oblique ply in 22a, 22b of the frontal face is adapted to receive the brow (unnumbered) thereby securing the back face in a closed position, and the frontal face is resistant against opposition of the cover (col 4, lines 4-10).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 571.272.6888. The examiner can normally be reached on Wednesday and Thursday, 5.30 am-2.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

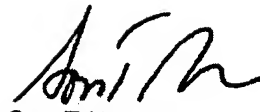


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Bethany L. Griles  
Examiner  
Art Unit 3643

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A handwritten signature in black ink, appearing to read 'Son T. Nguyen'.

Son T. Nguyen  
Primary Examiner  
AU 3643